



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2011-0058; Notice 3]

Toyota Motor Corporation, Inc., Grant of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Grant of Petition

SUMMARY: Toyota Motor North America, Inc., on behalf of Toyota Motor Corporation¹, and Toyota Manufacturing, Indiana, Inc.² (collectively referred to as "Toyota"), has determined that certain model year 2011 Toyota Sienna multipurpose passenger vehicles (MPV) manufactured between January 3, 2011 and February 11, 2011, do not fully comply with paragraph S9.5(a)(3) of Federal Motor Vehicle Safety Standard (FMVSS) No. 225, *Child restraint anchorage systems*. Toyota filed an appropriate report dated March 17, 2011, pursuant to 49 CFR Part 573 *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Toyota has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

¹ Toyota Motor Corporation is a Japanese corporation that manufactures and imports motor vehicles.

² Toyota Manufacturing, Indiana, Inc., is an Indiana corporation that manufactures motor vehicles

Notice of receipt of the petition was published, with a 30-day public comment period, on June 16, 2011 in the Federal Register (76 FR 35271). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2011-0058."

For further information on this decision contact Mr. Ed Chan, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)493-0335, facsimile (202)366-7002.

Vehicles involved: Affected are approximately 9,122 model year 2011 Toyota Sienna MPV's that were manufactured between January 3, 2011 and February 11, 2011.

Noncompliance: Toyota explains that the noncompliance is that the label identifying the location of the lower child restraint anchorages in some of the second row seats of the affected vehicles are located slightly outside the limits as stated within the requirements of paragraph S9.5(a)(3) of FMVSS No. 225.

Specifically, Toyota also explains that "the potential deviation of the label location outside the requirement is very small. Toyota observed that in a detailed survey of a randomly selected subset involving 18 of these vehicles in which it found

a deviation, the mean deviation was approximately +1.4 mm (i.e. 26.4 mm from the centerline); the maximum deviation observed was +2.5 mm (i.e. 27.5 mm from the centerline); and the standard deviation was only 0.5 mm. While a survey carried out by the seat supplier also supports Toyota's assertions that the potential deviation of the label location from the specified requirements is very small. In the supplier's survey of 240 labels on 120 seats, 3 labels were outside of the specifications of FMVSS No. 225. All 3 of those labels were measured at +1 mm beyond the specification, or 26 mm from the centerline."

SUMMARY OF TOYOTA'S ANALYSIS AND ARGUMENTS:

Toyota stated its belief that although the lower child anchorage labels are outside the specified limits of this requirement that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

- (1) The measured deviations are very minor, and such a slight deviation is not noticeable to consumers and would not impair a consumer's ability to locate the lower anchorages.
- (2) Paragraph S9.1 of FMVSS No. 225 requires that the length of the straight portion of the lower anchorage bar be a minimum of 25 mm. In the affected vehicles the length is 30 mm; the total length including the curved portions is 54 mm. As a result, even with

greater deviations than noted above in label location, some part of the label would be over some part of the bar, making the bar easy to locate.

- (3) The regulatory history of the provision allowing a ± 25 mm lateral tolerance for the location of the center of the circular label further supports the argument that this noncompliance has no adverse safety consequences. As originally adopted, FMVSS No. 225 would have limited the lateral tolerance to ± 12 mm. In response to a petition for reconsideration from vehicle manufacturers concerned that such a low tolerance would be difficult to meet due to process limitations and seat design features, NHTSA amended the standard to allow the current ± 25 mm tolerance. 69 Fed Reg. 48818 (August 11, 2004). In doing so, The agency stated:

"...Moreover, the agency believes that increasing the tolerance to 25 mm will not significantly affect the consumers' ability to find the LATCH anchorages.

While anchor bars are permitted to be as short as 25 mm in the straight portion of the bar, most are considerably longer. Even if a 25 mm bar were used, with a 25 mm tolerance from the center of the bar, the circle will be, at farthest, tangent to a longitudinal

vertical plane tangent to the side of the anchorage bar. If a person were to probe the seat bight in the area directly under the marking circle, his or her finger would easily contact the bar. For bars that are greater than 25 mm in length, with a 25 mm tolerance a portion of the marking circle will always be over some part of the bar. In either situation, marking the circle with a 25 mm tolerance will adequately provide a visual reminder to consumers that the LATCH system is present and will help users locate and use the bars. Adopting the 25 mm tolerance will also harmonize FMVSS No. 225 with the comparable Transport Canada requirement."

- (4) The seat design is such that only one label at a seating position can be noncompliant. As the seat cover, is constructed, the labels are secured to the fabric a specified distance apart that reflects the location of each pair of anchorages, and the labels are designed to be within the lateral tolerance of the standard.
- (5) Information provided in the vehicle owner's manual further reduces any possibility of confusion when installing a child restraint. The instructions clearly advise the installer to recline the second row

seat and widen the gap between the seat cushion and the seatback to expose the lower anchorages.

- (6) The label locations are correct for the LATCH anchorage system located at the third row center seating position³.
- (7) There have been no customer complaints, injuries, or accidents related to the deviation of the child restraint label location being slightly outside the limits of the requirement.

In addition, Toyota stated that the model year 2011 Sienna is sold by Toyota in both the United States and Canada and the subject noncompliance was reported to both NHTSA and Transport Canada at the same time. (In Canada, the applicable standard is CMVSS 210.2; it contains the same requirements as FMVSS No. 225). Transport Canada responded on March 23, indicating it concurs that "there is no real or implied degradation to motor vehicle safety," and that no further action in Canada will be required.

In summation, Toyota believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49

³ Toyota indicated that this LATCH anchorage is not a required by the standard, but was voluntarily installed by Toyota.

U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA DECISION:

Requirement Background: The purpose for the locational requirements for the label identifying the location of the lower child restraint anchorage is to assure that the installer of a child restraint system is readily able to locate the appropriate lower child restraint anchorages.

NHTSA's Analysis of Toyota's Reasoning

After review of the subject petition NHTSA agrees with Toyota that the location of the subject lower child restraint anchorage is in-line with the nonconforming location of the lower child restraint anchorage label, and the Owner's manual provided with the vehicles includes a description of the location of the anchorages in sufficient detail to allow the person installing a child seat to readily locate the anchorage.

NHTSA Conclusions

NHTSA agrees with Toyota's assessment that while the location of the subject lower child restraint anchorage label is outside of the allowable tolerance relative to the location of the anchorage that this would not prevent the installer of a child restraint system from being readily able to locate the lower child restraint anchorage.

Decision

In consideration of the foregoing, NHTSA has decided that Toyota has met its burden of persuasion that the FMVSS No. 225 noncompliance in the vehicles identified in Toyota's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, Toyota's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the vehicles that Toyota no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

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Claude H. Harris, Director
Office of Vehicle Safety Compliance

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